
No. 3273

IN EQUITY

United States
Circuit Court of Appeals
For the Ninth Circuit

MATHILDE CARDONER,

Appellant,

vs.

EUGENE R. Day, et al,

Appellees.

BRIEF OF HARRY L. DAY AND JEROME J.
DAY, ANSWERING APPELLANT'S REPLY
BRIEF.

*Upon Appeal From the District Court of the United
States, District of Idaho, Northern Division.*

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I.

Conclusiveness of findings below.

II.

Duty of plaintiff to have investigated books and accounts

Geddes Appeal, 80 Pa. St. 447.

III.

Necessity of reliance and absence of independent advice and information.

Ledington v. Patten, 86 N. W. 571 (581.)

Elmore v. McConaghy, 159 Pac. 108 (Wash.)

Mallory v. Leach, 35 Vt. 156; 82 Am. Dec. 625.

IV.

Difference between purchase, at sale made by administrator and purchase by him from an heir after administrator's duties have ceased and heir has taken possession and appointed new agent.

Golson v. Dunlap 14 Pac. 476 (Cal.)

V.

Section 5543 Revised Codes of Idaho.

Hunt, J., Mutual Benefit Life Insurance Co. v. Winne. 49 Pac. 446 (Mont.), concurring with Gilbert, Circuit J., in Mills v Mills 57 Fed. 873. (Orig. brief p. 76) that even if the statute had used the word

“void” it would mean only “voidable.”
See also *Cole v. Stokes* 113 N. C. 270 (18
S. E. 321.)

VI.

Plaintiff is in no event entitled to highest realizable value, but only to approximation of fair value.

Golson v. Dunlap. 14 Pac. 576 (579) (Cal.)

VII.

Greenough estimates: Ore in transit; Cash on Hand; Tonnage Extracted; Life of Mines; Value Further Considered.

